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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,803	08/04/2000	Theodore Rappaport	02560036aa	2515

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EXAMINER

PHAN, THAI Q

ART UNIT PAPER NUMBER

2128

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/632,803

Applicant(s)

RAPPAPORT ET AL.

Examiner

Thai Q. Phan

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 33-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>11/23/2005</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This Office Action is in response to applicants' amendment including Rule 1.132 Affidavit, filed on 09/06/2005. Claims 33-77 are pending in the Action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 33 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. These claims are omnibus type claims.

Claims 33 and 52 recite "one or more ... (C) prediction models (D) actual performance measurements ... at least two different simulations". These recitations are being indefinite for what they fail to point a specific combination for performance analysis, measurement, and simulation.

Claim 33 fails to show step to perform different simulations for display in step (C).

3. Claim 52 recites "a computer including (D) actual performance measurements taken from the physical environment ..." It is unclear for how the computer system includes actual performance measurements. Does the computer require another measurement device for taking measurement? Or does the computer take measurements by itself?

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4. Claim 52 recites "a selector for selecting specific components ... " How the selector would be able to select specific components in a plurality of system components. The claim does not show a model selection representation for selecting components.
5. Claims 35-39, 41-42, 54-58, 60-61, and 74 recite the limitation "said one or more icons". There is insufficient antecedent basis for this limitation in the claims.
6. Claim 38 recites the limitation "the functionality of one or more watch points". There is insufficient antecedent basis for this limitation in the claim.
7. Claim 39 recited the limitation "the functionality of a grid of watch points". There is insufficient antecedent basis for this limitation in the claim.
8. Claim 57 recites the limitation "the functionality of one or more watch points". There is insufficient antecedent basis for this limitation in the claim.
9. Claims 62-63 recite the limitation "the group consisting of ..." There is insufficient antecedent basis for these limitations in the claims.
10. Claim 66 recites the limitation "the measurement device group consisting of ..." There is insufficient antecedent basis for this limitation in the claim.

Response to Arguments

Applicant's arguments with respect to claims 33-77 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US patent no. 6,317,599 B1, issued to Rappaport et al, on Nov. 2001
2. US patent no. 6,356,841 B1, issued to Hamrick et al, on Mar. 2002

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Q. Phan whose telephone number is 571-272-3783.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on 571-272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nov. 23, 2005

Thai Phan
Thai Phan
Patent Examiner
Au: 2128